

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CHERYL PAYNE,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	FILE NO. 1:11-CV-2208 JEC
McCULLOUGH, PAYNE & HAAN, LLC,)	
ZENITH ACQUISITION CORP., and)	
NORTH STAR CAPITAL)	
ACQUISITIONS, LLC,)	
)	
Defendants.)	

**DEFENDANTS MCCULLOUGH, PAYNE & HAAN, LLC AND
ZENITH ACQUISITION CORP.'S MOTION TO STAY LITIGATION**

COME NOW McCULLOUGH, PAYNE & HAAN, LLC and ZENITH ACQUISITION CORP. (hereinafter collectively "Zenith"), Defendants in the above-styled action and hereby move this Court for an Order staying the litigation of this matter for a period of 60 days for the purpose of permitting Zenith to prepare and present to the Court a Motion to Compel Arbitration, and to obtain a ruling on the same. As set forth more fully in the brief filed herewith, Zenith anticipates that such Motion will demonstrate to the Court that this matter is subject to a contractually agreed upon provision requiring binding arbitration of all claims set forth herein, and that upon presentation of such evidence this Court will

conclude that it lacks jurisdiction to hear the present controversy, fully and finally resolving this Court's participation therein. Staying the litigation as between the parties to permit Zenith to subpoena the evidence necessary to support such a Motion will safeguard all parties and the Court from engaging in the expense of resources in pursuit of civil litigation which is likely to be ultimately precluded as a matter of law.

WHEREFORE, Defendants McCULLOUGH, PAYNE & HAAN, LLC and ZENITH ACQUISITION CORP. hereby move this Court for an Order Staying discovery and all other pre-trial proceedings for a period of 60 days from the date of the Court's Order to permit the presentation and consideration of whether these claims are governed by an agreement to submit to mandatory arbitration.

Respectfully submitted this 12th day of September, 2011.

**HAWKINS PARNELL
THACKSTON & YOUNG, LLP**

/s/ M. Elizabeth O'Neill

M. Elizabeth O'Neill

Georgia Bar No. 058163

ATTORNEY FOR DEFENDANTS

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CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing **Defendants McCullough, Payne & Haan, LLC and Zenith Acquisition Corp.’s Motion To Stay Litigation** was filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Craig J. Ehrlich @ cehrlich@attorneysforconsumers.com

This 12th day of September, 2011.

**HAWKINS PARNELL
THACKSTON & YOUNG, LLP**

/s/ M. Elizabeth O'Neill

M. Elizabeth O'Neill

Georgia Bar No. 058163

ATTORNEY FOR DEFENDANTS

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